

1 Harry S. Stern, SBN 176854
2 **RAINS, LUCIA & WILKINSON LLP**
3 2300 Contra Costa Boulevard, Suite 230
4 Pleasant Hill, CA 94523
5 Telephone: 925.609.1699
6 Facsimile: 925.609.1690

7
8 Attorneys for Defendant
9 JAMES MASON

10
11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 **JANE DOE,**

15 **Plaintiff,**

16 **v.**

17 **CITY OF SAN MATEO,**

18 **Defendant.**

Case No. 3:07-CV-5596

**DECLARATION OF HARRY S. STERN IN
SUPPORT OF DEFENDANT'S MOTION
TO UNSEAL THE COMPLAINT OR,
ALTERNATIVELY, MOTION TO
MODIFY THE PROTECTIVE ORDER**

19 I, Harry S. Stern, declare as follows:

20 1. I am an attorney licensed to practice in the State of California and in the Northern
21 District Federal Court;

22 2. I am a partner with the law firm Rains, Lucia & Wilkinson LLP, the attorneys of
23 record for Intervenor James Mason in this matter;

24 3. On or about November 20, 2006, Plaintiff Jane Doe filed a civil suit in San Mateo
25 County against James Mason, alleging Sexual Assault & Battery, Intentional Infliction of
26 Emotional Distress, Negligent Infliction of Emotional Distress, Fraud and Defamation (Case No.
27 458747);

28 4. Plaintiff concurrently filed a separate action (which she designated as related) against
the San Mateo County Sheriff's Office, and the San Mateo Police Department alleging that they

///

1 had failed to investigate her claims of Mason's sexual assault, and that they had falsely arrested
2 and imprisoned her on the evening that she was removed from Mason's home;

3 5. The two above actions were consolidated pursuant to the parties' stipulation;

4 6. Plaintiff's state court actions were not filed under seal;

5 7. Plaintiff did not proceed using a "Doe" appealation in state court;

6 8. Plaintiff dismissed the action against the public entity defendants and proceeded
7 solely against Mason;

8 9. This case is set for trial on January 28, 2008;

9 10. While preparing for trial, my investigator discovered that Plaintiff had filed this suit
10 in federal court, naming the original public entities she had sued in state court, as well as
11 individual police officers of the San Mateo Police Department, and the San Jose Police
12 Department

13 11. Mason is a police officer, employed by the San Jose Police Department;

14 12. The above-entitled matter has been filed under seal, preventing the Intervenor or his
15 counsel from reviewing any documents filed with the Court;

16 13. The Plaintiff's purpose for filing the federal complaint under seal is presently
17 unknown;

18 14. Plaintiff's attorney has informed me that the above-entitled matter is based on the
19 same events and facts as the Plaintiff's suit against Mason in state court;

20 15. In her state court action, Plaintiff has noticed the deposition of the two individual
21 officers named in this case;

22 16. Plaintiff has filed *Pitchess* motions seeking the confidential privileged personnel
23 records of peace officers that may serve as witnesses in both cases;

24 17. A number of serious substantive and procedural risks have been presented for the
25 parties in both cases, particularly Intervenor James Mason;

26 18. A copy of the Proposed Order to Unseal the Complaint is attached to the Motion;
27
28

19. A copy of the Proposed Order to Amend the Protective Order is attached to the Motion;

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of December 2007, in Pleasant Hill, California.

/S/

Harry S. Stern